

## **REMARKS**

### **Introduction**

Applicants acknowledge receipt of the non-final Office Action dated August 18, 2009. Claims 1-19 are pending. Claims 3-4 and 7-12 stand withdrawn. Applicants reserve the right to pursue the withdrawn claims through one or more divisional applications. Claims 1, 5-6, and 13-19 stand rejected.

Applicants hereby amend claim 16 to depend from claim 15. No new matter is introduced. Reconsideration is respectfully requested.

### **Rejection of Claim 16 Under 35 U.S.C. §112, Second Paragraph**

The Examiner rejects claim 16 under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. Specifically, the Examiner contends that there is insufficient basis for the limitation "wherein the one or more additional active ingredients are herbicides and/or safeners."

With the present Amendment and Reply, claim 16 is amended to depend from claim 15. Applicants request withdrawal of the rejection in view of this amendment to claim 16.

### **Rejection Under 35 U.S.C. §103**

The Examiner rejects claims 1-2, 5-6, and 13-19 under 35 U.S.C. §103(b) as being unpatentable over **Shribbs et al.** (U.S. Patent No. 5,741,756) in view of **Clough** (U.S. Publication No. 2005/0233986) and **Cornes** (U.S. Publication No. 2004/0180790).

The Examiner contends that **Shribbs et al.** suggest that HPPD-inhibiting herbicides can be combined with insecticides for the purpose of broadening the spectrum of activity. The Examiner concludes that it would have been obvious to one of ordinary skill in the art at the time of the invention to make a pesticidally active combination comprising an HPPD-inhibiting herbicide and an insecticide for the purpose of further broadening the spectrum of activity against undesirable pests. Applicants respectfully traverse this rejection.

The present invention relates to a pesticidally active combination comprising an HPPD-inhibiting herbicide -- in the form of an agrochemically acceptable salt -- and an insecticide.

As taught in the present specification, the combination of a HPPD-inhibiting herbicide with an insecticide results in a considerable increase in crop damage, compared to that seen following application of the HPPD inhibiting herbicide alone. Applicants, however, surprisingly

discovered that if an agrochemically effective salt of the HPPD inhibiting herbicide is used, a safening effect is observed and the crop damage is reduced to an acceptable level.

Both **Shribbs et al.** and **Clough** merely suggest that HPPD inhibiting herbicides can be combined with insecticides, in general, broad terms. The skilled person following the “generic” guidance afforded by either **Shribbs et al.**, **Clough**, or both, would simply arrive at a composition which would be expected to exhibit an unacceptable level of crop damage (e.g., crop phytotoxicity) as described in the present specification. To the contrary, the present claims clearly represent a substantial selection over the largely generic disclosure of **Shribbs et al.** and **Clough**.

Further, in order to arrive at the currently claimed specific selection, a significant alteration of the **Shribbs et al.** and **Clough** references is required. One of ordinary skill, upon reading **Shribbs et al.** and **Clough**, would not have been led to or motivated to select the combination of an HPPD inhibiting herbicide, such as mesotrione, a salt thereof, and insecticide from all other agriculturally active compounds mentioned in the respective specifications. Accordingly, the instantly claimed selection or combination of HPPD-inhibiting herbicide in the form of an agrochemically acceptable salt with an insecticide is not disclosed or even remotely suggested by **Shribbs et al.** and **Clough**.

The Examiner suggests that the deficiencies of **Shribbs et al.** and **Clough** are remedied by the **Cornes** reference. Applicants respectfully disagree. **Cornes** merely mentions that a mesotrione (a specific HPPD inhibiting herbicide) salt or metal chelate and a second herbicide may be combined in a composition to control growth of undesirable vegetation (see paragraph [0001] of the published specification). **Cornes**, however, provides no specific teaching, suggestion or guidance whatsoever to a composition comprising the combination of an agrochemically effective salt of a HPPD inhibiting herbicide and an insecticide as instantly claimed.

Thus, none of the prior art references cited provide any specific suggestion, amongst the myriad of generic teachings, that would motivate the skilled person to specifically combine an agrochemically effective salt of a HPPD inhibiting herbicide with an insecticide. Withdrawal of the rejection is respectfully requested.

**CONCLUSION**

Applicants believe the claims are in condition for allowance. If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated, since this should expedite the prosecution of the application for all concerned.

Respectfully submitted,

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